

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JAMES SNEED JR.,

Plaintiff,

v.

No. CV 10-1194 JP/GBW

STATE OF NEW MEXICO,
DEPARTMENT OF CORRECTION, ET AL.,

Defendants.

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

This matter is before the Court, *sua sponte* under 28 U.S.C. § 1915(e)(2) on Plaintiff's civil rights complaint. Plaintiff is incarcerated, appears pro se, and is proceeding *in forma pauperis*. For the reasons below, I recommend that the case be dismissed.

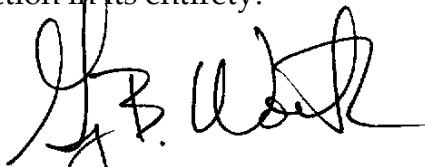
The Federal Rules of Civil Procedure hold that "failure of the plaintiff to prosecute or to comply with these rules or any order of court" provides a basis for involuntary dismissal. FED. R. CIV. P. 41(b); *see also* FED. R. CIV. P. 37(b)(2) (specifying sanctions, including dismissal, for failure to comply with discovery orders).

Additionally, courts have the inherent power to impose a variety of sanctions on litigants in order to, among other things, regulate its docket and promote judicial efficiency. *Martinez v. Internal Revenue Service*, 744 F.2d 71, 73 (10th Cir. 1984). One such sanction within the discretion of a court is to dismiss an action for want of prosecution.

See, e.g., Link v. Wabash R.R. Co., 370 U.S. 626, 629-30 (1962) ("The authority of a federal trial court to dismiss a plaintiff's action . . . because of his failure to prosecute cannot seriously be doubted. The power to invoke this sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the District Courts.").

In an order filed May 12, 2011, the Court ordered that Plaintiff's claims against all named defendants be dismissed because "no relief [could] be granted on his claims." *Doc. 10.* The Court gave Plaintiff 21 days in which to submit an amended complaint. Plaintiff was advised that "[f]ailure to comply . . . may result in dismissal of Plaintiff's action in its entirety." *Id.*

Almost six months has elapsed since the entry of the Order and Plaintiff has not filed an amended complaint nor filed any other pleadings in this case. Therefore, I recommend that the Court dismiss Plaintiff's action in its entirety.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE

THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1)(c). A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.